

REMARKS

By the foregoing Amendment, applicant has deleted reference numerals appearing in previous claims. Additionally, applicants appreciate the examiner's helpful comments and have adopted the language "about" in place of the previous term "in the vicinity of" in each of claims 3 and 7. Additionally, the word "including" has been changed to "comprising" in claim 1; the word "is" has been changed to "are"; and the "whereby" clause of claim 1 has been further amended to make it clear that the resilient section prevents warping of the element (1). Applicants respectfully submit that the foregoing amendments moot the previous objections to the claims and withdrawal of the objections and rejections are respectfully requested.

Reconsideration of the previous rejection of claims 1-3, 6-7, 12-13, 19 and 20-21 under 35 USC 102(b) as being clearly anticipated by Knox (U.S. Patent 2,888,764) is respectfully requested in view of the foregoing amendments and the following comments.

Although the examiner has attempted to define the teachings of Knox in paragraph 9 on page 4 of the Office Action, applicants respectfully submit that the examiner has misconstrued the Knox teaching. For example, the examiner asserts that Knox discloses an element, including a circumambient molded polymeric frame (citing column 2, lines 41-42; column 5, lines 65-66; and Fig. 1). The examiner continues "although Knox does not explicitly state that the differences in temperature related shrinkage between the frame and the wall section are absorbed by the resilient section without any relative movement between the wall section and the frame whereby warping of the element is avoided, the functional property of preventing shrinkage is inherent."

The examiner has presumed, without any teaching in the reference, that the product is formed by a process, wherein differences in temperature related shrinkage occur. In fact, the examiner is

mistakenly defining two disparate portions of the reference in attempting to achieve an embodiment purporting to anticipate the claimed invention.

In this regard, applicants respectfully direct the examiner's attention to column 2, lines 41-42, where it is shown that the "outer frame may comprise molding members 5 . . . joined together by mitered joints such as indicated at 6." A "molding member" is not the same as a "molded member" and there is no teaching in this section of the reference that such outer frame comprises a plastic material. Furthermore, at column 2, lines 53-56, patentee teaches that "the formable section 4 which interconnects the outer frame 1 and inner frame 2 is made of a desirable deformable material such as polyethylene plastic," but does not teach that outer frame 1 and inner frame 2 comprise such a plastic. In the portion of column 5, lines 59-64, an alternative embodiment is described. This is clear from the following beginning at line 59:

"In the description above, the construction of the ensemble provided for the holder to be removable from the framing. In certain instances, however, it is desirable that the holder be non-removable and in such cases I have found it desirable to form the ensemble comprising the outer frame, the deformable section and the holder as a unitary piece."

Patentees are clearly disclosing an alternative embodiment to that described at column 2, lines 41-42 and, in fact, at column 5, lines 65-66, describe "Figs. 6 and 7, which illustrate an ensemble cast from plastic." Nowhere in the description at column 5, lines 65-65, is the "plastic" described as polyethylene. In fact, since the material is "cast," there is no basis to believe that the material exhibits temperature differences because the "plastic" is not even described as being thermoplastic. By contrast, amended claim 1 requires that the element is manufactured through injection molding of a thermoplastic polymeric material. Such a material is clearly not shown or described in the alternative embodiment of column 5, lines 64 *et seq.*, nor in the main embodiment described at column 2, lines 36-52.

In view of the foregoing, applicants respectfully submit that the Knox reference cannot possibly act as an anticipation of the claimed invention and withdrawal of the rejection is respectfully requested.

Claim 17 stands rejected under 35 USC 103(a) as being unpatentable over Knox '764.

However, the deficiencies of Knox are described above and the application of Knox as to claim 17 does not correct the foregoing deficiencies. Accordingly, the rejection fails to establish a *prima facie* case of obviousness for the claimed invention and withdrawal of the rejection is respectfully requested.

The alternative rejections of claims 4, 8-9, 14, 16 and 18 under 35 USC 103(a) as being unpatentable over Knox '764 in view of Brauner or, alternatively, of claims 5, 10-11 and 15 under 35 USC 103(a) as being unpatentable over Knox '764 in view of King also fail to correct the deficiencies of Knox noted above. In the claimed invention, the element is manufactured through injection molding of a thermoplastic polymeric material inducing differences in temperature related shrinkage between portions of the element, i.e., specifically between the frame and the wall section. Although the examiner has alleged that method limitations in relation to the method of molding the article are given little to no patentable weight in an article claim, applicants respectfully submit that the recited composition of the article together with the process limitation lay the very basis for the invention, i.e., that the injection molding of a thermoplastic material creates differences in temperature related shrinkage between portions of the article. Thus, the resilient section of the element performs a function which could not possibly be present in the cited prior art since it is not inherent that there is a temperature related shrinkage in a "cast" plastic as in Knox.

For the foregoing reasons, the proposed alternative combination of secondary references with Knox '764 fails to establish a *prima facie* case of obviousness for the invention as claimed and withdrawal of the rejections are respectfully requested.

If the examiner is of the opinion that a brief telephonic or personal interview would facilitate any additional issues leading to the allowance of the application, he is kindly invited to contact the undersigned at (202) 785-0100.

Respectfully submitted,



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Date: November 14, 2002

ATTACHMENT I - Marked-Up Claims

1. (Amended) Flat or semi-flat element [(1) including] comprising a partly or completely circumambient frame [(2)], which element [(1)] is manufactured through injection molding of a thermoplastic polymeric material, wherein the element [(1) includes] comprises a carrying structure, constituted by [the] a frame [(2)], and [an intermediate] a wall section [(3)], which wall section [(3)] is connected to the frame [(2)] via a resilient section [(4)], the resilient section [(4)] being a part of the wall section [(3)], wherein differences in the temperature related shrinkage between the frame [(2)] and the wall section [(3)] is are absorbed by the resilient section [(4)] whereby the resilient section prevents warping of the element [(1)] is avoided].

2. (Amended) Flat or semi-flat element [(1)] according to claim 1, wherein the frame [(2)] is formed by a U-shaped profile.

3. (Amended) Flat or semi-flat element [(1)] according to claim 1, wherein the wall section [(3)] is connected to the frame [(2)] in the vicinity of] about the gravity center line [(5)] of the frame [(2)].

4. (Amended) Flat or semi-flat element [(1)] according claim 1, wherein the frame [(2)] is a closed hollow profile formed through injection of a pressurised fluid into a still molten thermoplastic material, that the material thickness of the wall section [(3)] is thinner closest to the connection between the frame [(2)] and the wall section [(3)] than the average thickness of the wall section [(3)] and the frame [(2)], whereby a barrier is formed in this connection part at the

solidification of the thermoplastic material, which barrier prevents the pressurised fluid from entering the wall section [(3)] during the manufacturing process.

5. (Amended) Flat or semi-flat element [(1)] according to claim 1, wherein the material thickness of the wall section [(3)] is thinner closest to the connection between the frame [(2)] and the wall section [(3)] than the average thickness of the wall section [(3)] and the frame [(2)], whereby a pivot line is formed, which pivot line facilitates resilient action in the wall section [(3)].

6. (Amended) Flat or semi-flat element [(1)] according to claim 1, wherein the element [(1)] forms a side wall of a container or a collapsible container, a bottom section of a container or a collapsible container or a lid of a container.

7. (Amended) Flat or semi-flat element [(1)] according to claim 2, wherein the wall section [(3)] is connected to the frame [(2)] in the vicinity of about the gravity center line [(5)] of the frame [(2)].

8. (Amended) Flat or semi-flat element [(1)] according to claim 2, wherein the frame [(2)] is a closed hollow profile formed through injection of a pressurized fluid into a still molten thermoplastic material, that the material thickness of the wall section [(3)] is thinner closest to the connection between the frame [(2)] and the wall section [(3)] than [the] an average thickness of the wall section [(3)] and the frame [(2)], whereby a barrier is formed in this connection part at the solidification of the thermoplastic material, which barrier prevents the pressurized fluid from entering the wall section [(3)] during the manufacturing process.

9. (Amended) Flat or semi-flat element [(1)] according to claim 3, wherein the frame [(2)] is a closed hollow profile formed through injection of a pressurized fluid into a still molten thermoplastic material, that the material thickness of the wall section [(3)] is thinner closest to the connection between the frame [(2)] and the wall section [(3)] than the average thickness of the wall section [(3)] and the frame [(2)], whereby a barrier is formed in this connection part at the solidification of the thermoplastic material, which barrier prevents the pressurized fluid from entering the wall section [(3)] during the manufacturing process.

10. (Amended) Flat or semi-flat element [(1)] according to claim 2, wherein the material thickness of the wall section [(3)] is thinner closest to the connection between the frame [(2)] and the wall section [(3)] than the average thickness of the wall section [(3)] and the frame [(2)], whereby a pivot line is formed, which pivot line facilitates resilient action in the wall section [(3)].

11. (Amended) Flat or semi-flat element [(1)] according to claim 3, wherein the material thickness of the wall section [(3)] is thinner closest to the connection between the frame [(2)] and the wall section [(3)] than the average thickness of the wall section [(3)] and the frame [(2)], whereby a pivot line is formed, which pivot line facilitates resilient action in the wall section [(3)].

12. (Amended) Flat or semi-flat element [(1)] according to claim 2, wherein the element [(1)] forms a side wall of a container or a collapsible container, a bottom section of a container or a collapsible container or a lid of a container.

13. (Amended) Flat or semi-flat element [(1)] according to claim 3, wherein the element [(1)] forms a side wall of a container or a collapsible container, a bottom section of a container or a collapsible container or a lid of a container.

14. (Amended) Flat or semi-flat element [(1)] according to claim 4, [wherin] wherein the element [(1)] forms a side wall of a container or a collapsible container, a bottom section of a container or a collapsible container or a lid of a container.

15. (Amended) Flat or semi-flat element [(1)] according to claim 5, wherein the element [(1)] forms a side wall of a container or a collapsible container, a bottom section of a container or a collapsible container or a lid of a container.

17. (Amended) Flat or semi-flat element [(1)] according to claim 1, wherein the frame is formed by a plurality of ribs, the plurality of ribs spaced at a distance from each other smaller than the height of the height of each of the plurality of ribs.

18. (Amended) Flat or semi-flat element [(1)] according to claim 1, wherein the frame is formed by a closed hollow profile.

19. (Amended) Flat or semi-flat element [(1)] according to claim 1, wherein the wall section [(3)] is connected to the frame [(2)], such that any disparate shrinking is absorbed by the

resilient section [(4)] without any relative movement between the wall section [(3)] and the frame [(2).-].

20. (Amended) Flat or semi-flat element [(1)] according to claim 3, wherein the wall section [(3)] is connected to the frame at the gravity center line [(5)] of the frame [(2)].

21. (Amended) Flat or semi-flat element [(1)] according to claim 7, wherein the wall section [(3)] is connected to the frame [(2)] at the gravity center line [(5)] of the frame [(2).--].